

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FRANCISCO VALDEZ, et al.,

Plaintiffs,

v.

CITY OF SAN JOSE, et al.,

Defendants.

Case No.: 4:09-cv-0176 KAW

ORDER TO MEET AND CONFER
REGARDING CAUSES OF ACTION

Plaintiffs Francisco Valdez, Ricardo Vasquez, Daniel Martinez, and Jamil Stubbs filed this case as a putative class action against the City of San Jose, San Jose Police Chief Robert Davis, and San Jose Police Officers R. Agamau, Martin, Rickert, Wallace, and Orlando.

On February 27, 2013, the Court issued an order denying Plaintiffs' motion for class certification and granting in part and denying in part Defendants' motion for summary judgment. The remaining causes of action in the operative second amended complaint are: Fourth Amendment claims against Wallace, Agamau, and Orlando; a Fourteenth Amendment claim against Agamau; § 1985 claims against all Defendants; First, Fifth, Sixth, and Eighth Amendment claims against Officers Agamau, Martin, Rickert, Wallace, and Orlando; false arrest and battery claims against Wallace, Agamau, Orlando, Rickert, and Martin; and civil conspiracy, negligence, and violations of the Bane Act and Ralph Act against all Defendants.

It appears that some of the claims may have survived summary judgment merely because Defendants failed to present adequate arguments to support dismissing some of these claims. *See* Order Denying Motion For Class Certification; Granting In Part And Denying In Part Motion For Summary Judgment, Dkt # 162 at 17, 31:

1 Defendants do not appear to have raised any arguments in support of their motion
2 with respect to Plaintiffs' First, Fifth, Sixth, and Eighth Amendment claims or their
3 § 1985 claim. Accordingly, they have not met their initial burden and summary
4 judgment must be denied with respect to these claims . . . Although these claims
5 remain to be tried, the Court notes that Plaintiffs have not, thus far, provided an
6 evidentiary basis to support most of these claims . . .

7 . . .

8 Plaintiffs assert claims of false arrest and battery against Wallace, Agamau,
9 Orlando, Rickert, and Martin. In addition, they charge all Defendants with civil
10 conspiracy, negligence, and violations of the Bane Act and the Ralph Act . . .
11 because Defendants present no other arguments or evidence supporting their
12 motion for summary judgment on Plaintiffs' state law claims, their motion must be
13 denied with respect to these claims.

14 At the May 14, 2013 case management conference, the undersigned told the parties that
15 they should meet and confer regarding the possibility of stipulating to the dismissal of all or some
16 of these claims. The parties have not filed a stipulation or otherwise indicated whether they will
17 agree to dismiss these claims. However, Defendants assert that "the only remaining causes of
18 action are those that Plaintiffs have against Officers Agamau, Wallace, and Orlando." Dkt # 192
19 at 2-3.

20 Accordingly, the parties are ordered to meet and confer and file either: 1) a stipulation
21 dismissing causes of action, or 2) a statement that no additional causes of action will be
22 dismissed, together with a two-page joint brief explaining how the remaining claims against all
23 Defendants affects the outcome of Defendants' pending motion to sever, by July 15, 2013. The
24 hearing on the motion to sever is rescheduled to July 25, 2013, at 11:00 a.m.

25 It is so ORDERED.

26 Dated: July 10, 2013

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28

KANDIS A. WESTMORE
UNITED STATES MAGISTRATE JUDGE